

UNAPPROVED

**VIRGINIA BOARD OF DENTISTRY
FULL BOARD MINUTES**

March 9, 2018

Department of Health Professions

Henrico, VA 23233

- CALL TO ORDER:** Dr. Alexander called the meeting of the Board to order at 9:03AM. With 9 Board members present, a quorum was established.
Ms. Reen provided the emergency egress procedures for Board Room 4.
- MEMBERS PRESENT:** John M. Alexander, D.D.S., President
Tonya A. Parris-Wilkins, D.D.S., Vice-President
Augustus A. Petticolas, Jr., D.D.S., Secretary - Treasurer
Tammy C. Ridout, R.D.H.
Sandra J. Catchings, D.D.S.
James D. Watkins, D.D.S.
Carol R. Russek, JD
Jamiah Dawson, D.D.S.
Patricia B. Bonwell, R.D.H., PhD
- MEMBERS ABSENT:** Nathaniel C. Bryant, D.D.S.
- STAFF PRESENT:** Sandra K. Reen, Executive Director of the Board
Kelley W. Palmatier, Deputy Executive Director of the Board
Sheila Beard, Executive Assistant
David Brown, DC, DHP Director
Barbara Allison-Bryan, MD, DHP Chief Deputy Director
Elaine Yeatts, DHP Policy Analyst
- COUNSEL PRESENT:** James E. Rutkowski, Assistant Attorney General
- PUBLIC COMMENT:** Kassie Schroth, McGuire Woods Consulting – Recommended amending section 18VAC60-21-290 of the Regulations Governing the Practice of Dentistry to require a dentist to hold a permit in order to delegate administration of sedation.
- APPROVAL OF MINUTES:** With two changes noted in the December 14, 2017 minutes, Dr. Watkins made a motion to adopt the 2 sets of formal hearing minutes. The motion was seconded and passed.
- Dr. Catchings moved to adopt the minutes for the December 15, 2017 Formal Hearing and Business Meeting; the January 26, 2018 Public Hearing; and February 8, 2018 Conference Call. The motion was seconded and passed.

DHP DIRECTOR'S REPORT

Dr. Brown informed the Board that there have been many changes in state leadership to include Governor Northam, MD, the Secretary of Health and Human Resources, Dan Carey, MD, Deputy Secretary, Gina Boyle, Deputy Secretary, Marvin Figaroa, and the new agency director of DMAS, Jennifer Lee. He also welcomed and introduced Dr. Barbara Allison-Bryan, MD as the new Chief Deputy Director at DHP.

Dr. Brown also informed the Board that the agency has acquired additional office space on the first floor which is ready to be occupied and the upcoming move of the Board of Dentistry to its new space on the 3rd floor. He then thanked the Board for addressing his concerns about disciplinary cost recovery.

Dr. Allison-Bryan thanked everyone for the warm welcome and expressed her special interest in addressing the opioid epidemic and its impact.

SANCTIONING REFERENCE POINTS

Neal Kauder, President of VisualResearch, Inc., provided an overview of the Fine Amounts and Sanctioning Reference Points (SRP) tools that are currently used by the Board in discipline cases. This review was done primarily because of the Board's concern for promoting consistency in the fine amounts and fairness to those being sanctioned. After the conclusion of his presentation, Mr. Kauder suggested the Board consider revising the worksheets or making it a guidance document. A motion was made by Ms. Ridout to revise the sanctioning worksheets. The motion was seconded and passed.

COMMITTEE REPORTS

Dr. Watkins made the following reports:

- **SRTA** - SRTA is still considering rejoining ADEX for the development of licensure exams. One thing that may be a hindrance is ADEX is considering assessing a fee for joining. There will be more information to come on this decision.
- **BHP** - BHP has discussed the upcoming changes to the agency to include the move for dentistry. Also, the committee is discussing in more detail the possibility of implementing criminal background checks for two more boards.
- **Exam Committee** - Dr. Watkins reviewed the Exam Committee's minutes in the agenda package. He stated the Committee recommends adding five "Did you know" questions and answers on the renewal form for both dentists and dental hygienists to read. The Committee recommended that the Board not move forward with requiring a law exam for new licensees.

Ms Ridout made the following report:

- **SCDDE** - The 2018 Southern Conference of Dental Deans and Examiners took place on January 26-28, and included discussion of the new CDT Code for skin pricks for diabetes testing. Ms. Ridout asked if action was needed to allow dentists to do skin pricks. Ms. Reen responded that the definition of dentistry in the Code of Virginia may need to be changed to make this possible.

Dr. Petticolas made the following report:

- The Regulatory-Legislative Committee met on March 8, 2018 and adopted the following motions for Board action. The Committee moved:
 - To withdraw the fast track regulatory action for amending the restriction on advertising dental specialties and resubmit it as a NOIRA. Following discussion of the rules for fast track action, the motion passed.
 - To not pursue granting CE credit for attending Board meetings. The motion passed without discussion.
 - To not pursue adding PGY-1 as a pathway for licensure. The motion passed without discussion.
 - To issue a NOIRA to revise the sedation regulations including the recommendations from RAP. Following discussion of the RAP's recommendations, the motion passed.

Dr. Alexander made the following reports:

- **AADB** - Dr. Alexander announced that the next AADB meeting will be held in April in Chicago, IL. He said it is very important that the Board continue to attend these meetings because the information shared is relevant and important.
- **Advisory Panel on Opioids** - There was nothing new to report from the Advisory Panel on Opioids. He noted that the requirements for e-prescribing must be in effect by the year 2020 and the current challenge for prescribers is obtaining the right software package to prescribe opioids.
- **RAP** - Dr. Alexander referred to the minutes from the last RAP meeting and reviewed the changes recommended to Part VI of the Regulations Governing the Practice of Dentistry regarding controlled substances, sedation, and anesthesia regulations. He also suggested that the Board consider adding a requirement for dentists to inform patients on the proper use of prescribed opioids, the risk of addiction and overdose, and the proper storage and disposal of unused and expired opioid medications. He said this addition would help prevent unintended use by others and accidental poisoning of pediatric patients.
- Dr. Alexander informed the Board that the Executive Committee met to review and update the bylaws. During the meeting the Code of Conduct for board members was also reviewed. All proposed changes will be included in the June meeting agenda package.

LEGISLATION AND REGULATORY ACTIONS

Ms. Yeatts gave a report on the legislation that passed in the 2018 General Assembly which impacts DHP:

- HB 533 Veterans: acceptance of substantially equivalent military training, etc.
- HB 793 Nurse Practitioners: practice agreements
- HB 883 Regulatory reduction pilot program: Department of Planning and Budget to implement, report.
- HB 1173 Controlled substances: limits on prescriptions containing opioids.
- HB 1440 Schedule I and Schedule II drugs: adds various drugs to list.
- SB 258 Subpoenas: issuance by Director of Department of Health Professions or his designee.
- SB 544 Prescription drugs: donation of used medicines.
- SB 726 CBD oil and THC-A oil: certification for use, dispensing.
- SB 918 Professional and occupational regulation: authority to suspend or revoke licenses, certificates.

Ms. Yeatts provided a status report on the following regulatory actions:

- **Conforming rules to ADA guidelines on moderate sedation** –the comment period ended on February 23, 2018 so the Board can adopt these for publication as a final action. Ms. Russek made the motion to adopt as a final action. The motion was seconded and passed.
- **Continuing education for practice by remote supervision** – Ms. Yeatts said the emergency regulation is in effect and needs to be replaced with final regulations by May 12, 2019. She requested adoption of these regulations as proposed with final regulations to be released for public comment. Dr. Bonwell made the motion to adopt the proposed regulations. The motion was seconded and passed.

BOARD DISCUSSIONS

Acknowledgment of Public Comments – Dr. Alexander acknowledged the verbal and written comments received from the public on specialty advertising and the sedation regulations.

Guidance Documents – Ms. Palmatier reviewed the following documents for approval by the Board:

- **Acceptable Clinical Examinations.** This Guidance document is a new policy on the content of Clinical Examinations Acceptable to the Board. Adoption of this guidance document is proposed to address the Board’s requirements in regard to sections the examining agencies have made optional. Dr. Bonwell moved to accept the guidance document. The motion was seconded and passed.
- **Proposed changes to Guidance document 60-13** regarding the practice of dental hygiene under remote supervision. Revision of this guidance is proposed to address changes made to the current regulations and to address recent questions from licensees. Ms. Ridout made a motion to accept the proposed changes. The motion was seconded and passed.

National Actions on Dental Specialties – Dr. Alexander reviewed the following announcements:

- ADA has appointed members to a new dental specialty commission.
- CODA is eliminating the word “specialty” from its terminology, opting to use “advanced education programs” instead.
- JCNDE is in the process of changing its examination to the Integrated National Board Dental Examination and has released an implementation plan and recommended actions dental boards should take to prepare for the change.

BOARD COUNSEL REPORT

Mr. Rutkowski had nothing to report to Board.

DISCIPLINE AND DEPUTY EXECUTIVE DIRECTOR REPORT

- **Disciplinary Activity Report**

Ms. Palmatier reviewed her report noting for the second quarter of 2018, the Board received a total of 64 patient care cases. The Board closed a total of 78 patient care cases for a 122% clearance rate, which is up from 77% in Q1 of 2018. The current pending caseload older than 250 days is 29%, while the Board’s goal is 20%. In Q2 of 2018, 90 % of the patient care cases were closed within 250 days which meets DHP’s performance goal. There were two mandatory suspensions of dental licenses between December 2, 2017 and February 20, 2018.

- **Update of Guidance Document 76-24.3 Inspection Form**

Ms. Palmatier reviewed proposed revisions to Guidance Document 76-24.3, the Virginia Board of Dentistry Dental Inspection Form: on Page 1, changing the DEA registration posting requirements to having it readily retrievable and on Pages 3 and 4, changing the provisions on conscious/moderate sedation shown as the second column to reflect the progression of the levels of sedation. Dr. Petticolas moved the adoption of the revisions. It was suggested that the term “conscious” should be removed since it is being stricken from the regulations. It was agreed to include this change in the motion, which was seconded and passed.

- **Sedation / Anesthesia Form**

Ms. Palmatier reported that she is creating a sample Sedation/Anesthesia form for licensees to record all of the information required by the Board’s sedation and anesthesia regulations. She plans to have a draft for the Board’s review and approval at the June 2018 meeting.

- **Southern Conference of Dental Deans and Examiners Report**

Ms. Palmatier reported on her attendance at the 63rd Southern Conference of Dental Deans and Examiners held on January 27-28, 2018, noting the presentations on national exam activities and inter-professional training in the area of dental sleep medicine.

EXECUTIVE DIRECTORS REPORT –

- **Updating Guidance Document 60-17 on Recovery of Disciplinary Costs**

Ms. Reen addressed Dr. Brown’s concern that the recovery of administrative costs in disciplinary cases was not fair to dental hygienist who earn 50% less than dentists and not fair to any licensee who only receives a reprimand. Ms. Reen provided the guidance document and asked the Board if it would prefer to suspend collection of administrative costs or look further at this Guidance document for possible amendment. A motion was made by Ms. Ridout to refer this guidance document to the Regulatory-Legislative Committee for review. The motion was seconded and passed.

- **CODA Winter 2018 Accreditation Actions**

Ms. Reen reviewed a Notice of Accreditation Actions issued by the Commission on Dental Accreditation.

- **Silver Diamine Fluoride (SDF) Fact Sheet**

Ms. Reen provided a fact sheet to the Board regarding Silver Diamine Fluoride, noting that under current law it is permissible for dental hygienist to apply this fluoride treatment. The fact sheet addresses considerations, protocols and who may be allowed to apply this treatment. She said several state boards have adopted guidance on the use of SDF since it can stain tooth surfaces. She asked if the Board wants to look further into the use of SDF. The Board decided by consensus not to take any actions regarding SDF.

ADJOURNMENT: With all business concluded, Dr. Alexander adjourned the meeting at 12:00 PM.

John M. Alexander, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date